

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**
441 4th Street, N.W.
Washington D.C. 20001

2010 SEP 21 AM 8:35
OFFICE OF ZONING

Appeal of ANC 8E

Appeal No. 18103

DISTRICT OF COLUMBIA'S PRE-HEARING STATEMENT

The Appellee, the District of Columbia Department of Consumer and Regulatory Affairs ("Appellee" or "DCRA"), by and through undersigned counsel, respectfully submits its pre-hearing statement in opposition to the May 25, 2010 appeal filed by the Appellant, ANC 8E. The appeal alleges that DCRA erred in its April 1, 2010 decision to issue building permit no. B1002975 to Peaceoholics, a non-profit corporation, for the renovation of an apartment building located at 1300 Congress St., SE ("the Property").¹ The Board must deny this appeal because an apartment building is a matter of right use in an R-5-A zone and therefore the permit issued by DCRA does not violate the Zoning Regulations.

The Appeal Must Be Dismissed

In this case, the sole issue for the Board to consider is whether DCRA erred, with respect to the Zoning Regulations, in issuing building permit no. B1002975. In Appellant's appeal, it does not identify or provide evidence of any error in the approval of the permit. For that reason, the appeal must be dismissed.

The basis of Appellant's objection to the issuance of the permit is that it believes Peaceoholics intends to use the Property as a community based residential facility (CBRF) and

¹ See Exhibit A attached for a map and ariel view of the Property.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18103

EXHIBIT NO. 18

Board of Zoning Adjustment
District of Columbia
CASE NO. 18103
EXHIBIT NO. 18

not as an apartment building. For that reason, Appellant believes the building permit was obtained under false pretenses. Despite Appellant's concerns, for the purposes of this appeal, the question of Peaceoholics' future use of the Property is irrelevant. The issuance of building permit no. B1002975 did not permit Peaceoholics to operate a CBRF at the Property or violate any provision of the Zoning Regulations.

Building permit no. B1002975 permitted the renovation of an existing 13-unit apartment building located at the Property. *See Exhibit B* attached hereto. The description of work on the permit plainly states "interior renovation of apartment building" and it specifically limits the scope of the work to "interior[,] non structural work." *Id.* The building permit application and supporting documents submitted by Peaceoholics are consistent with the scope of work approved by the permit. *See Exhibit C* attached hereto.

The use of the Property as an apartment building is a matter of right use in an R-5-A zone. *See* 11 DCMR § 350.4(c). Further, since Peaceoholics' use of the Property as an apartment building is neither an expansion of or change in the prior use, its renovation of the Property is not subject to the provisions of § 353, which apply only to "new residential developments." *See Exhibit D* attached hereto; 11 DCMR § 353.1.²

Currently, DCRA understands that the Property is still under construction and no certificate of occupancy has been applied for or issued to Peaceoholics. When DCRA does receive an application for a certificate of occupancy from Peaceoholics, DCRA will review it to ensure that the use applied for complies with the Zoning Regulations. If after the issuance of a certificate of occupancy, DCRA finds that the use of the Property is inconsistent with the permitted use, DCRA can take enforcement action at that time. At present, DCRA has not

² 11 DCMR § 353.1 requires new residential developments, including apartment buildings, to be reviewed by this Board as a special exception. As this building is not a new residential development, this Board is not required to review the project.

received any information from Peaceoholics indicating that the Property will be used for anything other than an apartment building. Accordingly, there is no basis for DCRA or the Board to conclude that the Property will be used as a CBRF or for any use that is not permitted by the Zoning Regulations.

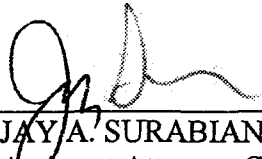
For the reasons set forth above, DCRA did not err in issuing building permit no. B1002975.

Respectfully Submitted,

PETER J. NICKLES
Attorney General
for the District of Columbia

MELINDA M. BOLLING
General Counsel

September 23, 2010



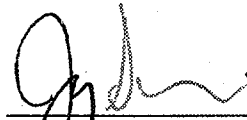
JAY A. SURABIAN (DC Bar # 977657)
Assistant Attorney General
Department Of Consumer And
Regulatory Affairs
Office of the General Counsel
1100 4th Street, SW, 5th Floor
Washington, DC 20024
(202) 442-8403 (office)
(202) 442-9447 (fax)
jay.surabian@dc.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Pre-Hearing Statement was served by first class mail and email, this 23 day of September 2010, to the following:

ANC 8E
c/o Sandra Seegars
1107 Savannah St., SE
Washington, DC 20032
8e02@anc.dc.gov

Peaceoholics
606 Raleigh Pl., SE
Washington, DC 20032
jauharabraham@yahoo.com



Jay Surabian